



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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June 20, 2013

William L. Smith
1338 Sabraton Avenue
Morgantown, WV 26505

**RE: V13-22 / Smitty's Kountry Kreme / 1616 Earl Core Road
Tax Map 32, Parcel 36**

Dear Mr. Smith,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1347.04 as it relates to setbacks at 1616 Earl Core Road.

The decision is as follows:

Board of Zoning Appeals, June 19, 2013:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved an eight-foot (8') variance from the side setback under Article 1347.04(3) for the accessory structure as requested.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary
shollar@cityofmorgantownwv.gov

ADDENDUM A – Approved Findings of Fact

V13-22 / Smitty's Kountry Kreme / 1616 Earl Core Road

Finding of Fact No. 1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

Given the location and layout of the subject principal structure, the neighboring principal structure, parking, walk-up windows, and the nonconforming continuous driveway entrance along Earl Core Road and the connecting roadway between Earl Core Road and Sabraton Avenue, it appears that the proposed location is the most suitable on the site to develop an accessory structure for the intended purpose of covering and shading the existing outdoor seating area.

Finding of Fact No. 2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

The adjoining principal structure currently occupied by the discount tobacco retail establishment appears to encroach into the side setback standard.

Finding of Fact No. 3 – The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The proposed location of the accessory structure promotes and protects patron and public welfare; the positioning of which appears to be the most logical and safe location on the site given existing parking, walk-up windows, and the nonconforming continuous driveway entrance along Earl Core Road and the connecting roadway between Earl Core road and Sabraton Avenue.

Finding of Fact No. 4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

No alterations to the existing principal building, use, or site are required; the proposed accessory building can be moved at a later time; and, the nature of the variance relief cannot contribute to nor mitigate existing traffic congestion.